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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/091,860

03/06/2002

Steven R. Cox

6937

58076

7590

04/07/2006

REED SMITH, LLP  
TWO EMBARCADERO CENTER  
SUITE 2000  
SAN FRANCISCO, CA 94111

EXAMINER

KOPPIKAR, VIVEK D

ART UNIT

PAPER NUMBER

3626

DATE MAILED: 04/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/091,860	<b>Applicant(s)</b> COX ET AL.	
	<b>Examiner</b> Vivek D. Koppikar	<b>Art Unit</b> 3626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 06 March 2002.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 March 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Status of the Application*

1. Claims 1-10 have been examined in this application. This communication is the first action on the merits. As of the date of this communication, no Information Disclosure Statements (IDS) statements have been filed for this case.

### *Claim Rejections - 35 USC § 103*

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-5 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent Application Publication 2002/0184055 to Naghavi in view of US Patent Number 6,057,764 to Williams.

(A) As per claim 1, Naghavi teaches a method for assessing risk to a human in an environment, wherein the environment includes multiple areas (Naghavi: Abstract), the method comprising,

using data to derive a risk assessment (Naghavi: Section [0114]).

In Naghavi the data that is used to derive the risk assessment does not include data on detecting the presence of a human in at least one area, however, gathering this type of data is well known in the art as evidenced by Williams (Col. 6, Ln. 9-22). At the time of the invention, it would have been obvious for one of ordinary skill in the art to have modified the method of Naghavi with the aforementioned feature from Williams with the motivation of having a means

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of calculating a risk assessment based upon data on the presence of individuals in certain environments, as recited in Williams (Col. 5, Ln. 63-67).

(B) As per claim 2, in the combined method of Naghavi in view of Williams the step of detecting includes a substep of using a sensor to detect the presence of a human (Williams: Col. 2, Ln. 24-35). The motivation for making the aforementioned modification to the method of Naghavi is the same as set forth in the rejection of claim 1 above.

(C) As per claim 3, in the combined method of Naghavi in view of Williams the step of detecting includes using a radio-frequency identification badge (Williams: Col. 6, Ln. 18-22). The motivation for making the aforementioned modification to the method of Naghavi is the same as set forth in the rejection of claim 1 above.

(D) As per claim 4, in the combined method of Naghavi in view of Williams the step of detecting includes a card reader (Williams: Col. 2, Ln. 24-35). The motivation for making the aforementioned modification to the method of Naghavi is the same as set forth in the rejection of claim 1 above.

(E) As per claim 5, in the combined method of Naghavi in view of Williams the step of detecting includes a substep of association an identification of the human with the detection (Williams: Col. 2, Ln. 24-35 and Col. 6, Ln. 9-22). The motivation for making the aforementioned modification to the method of Naghavi is the same as set forth in the rejection of claim 1 above.

(F) As per claim 10, Naghavi teaches an apparatus for obtaining data to determine insurance rates (Naghavi: Abstract), the apparatus comprising:

a processor for receiving a signal from a sensor wherein the processors receives data derived from the signal to determine, at least in part, a risk assessment (Naghavi: Sections [0025], [033] and [0114]).

Naghavi does not teach that the apparatus comprises at least one sensor for determining the presence of a human in at least one area, however, gathering this type of data is well known in the art as evidenced by Williams (Col. 6, Ln. 9-22). At the time of the invention, it would have been obvious for one of ordinary skill in the art to have modified the apparatus of Naghavi with the aforementioned feature from Williams with the motivation of having a means of calculating a risk assessment based upon data on the presence of individuals in certain environments, as recited in Williams (Col. 5, Ln. 63-67). The combined apparatus of Naghavi in view of Williams also does not teach the step of determining an insurance rate, however, Naghavi, as noted above, does teach the step of determining a risk assessment and the examiner takes Official Notice that it is well known in the insurance industry to determine an insurance rate from a risk assessment and at the time of the invention, it would have been obvious for one of ordinary skill in the art to have modified the combined apparatus of Naghavi in view of Williams with the above aforementioned feature with the motivation of having a means of producing a bill to send or transmit to the payor of the insurance (worker's compensation) policy.

4. Claims 6-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Naghavi in view of Williams as applied to Claim 1, above, and in further view of US Patent Number 6,604,080 to Kern.

(A) As per claims 6-9, the combined method of Naghavi in view of Williams does not teach using the risk assessment in a worker's compensation program nor does it teach using at least a

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portion of the risk assessment to determine premiums to be paid by an employer nor does it teach using at least a portion of the risk assessment to determine benefit payments to be made by an insurer nor does it teach using at least a portion of the risk assessment to determine projections for the worker's compensation program, however, the examiner takes the position that these features are well known in the insurance industry as evidenced by Kern (Col. 7, Ln. 64-Col. 8, Ln. 15). At the time of the invention, it would have been obvious for one of ordinary skill in the art to have modified the combined method of Naghavi in view of Williams with these aforementioned features from Kern with the motivation of calculating the cash flow amounts in a worker's compensation program and with the motivation of having a means of being able to bill the payor of the insurance policy, as recited in Kern (Col. 8, Ln. 10-15).

### *Conclusion*

5. Any inquire concerning this communication or earlier communications from the examiner should be directed to Vivek Koppikar, whose telephone number is (571) 272-5109. The examiner can normally be reached from Monday to Friday between 8 AM and 4:30 PM.

If any attempt to reach the examiner by telephone is unsuccessful, the examiner's supervisor, Joseph Thomas, can be reached at (571) 272-6776. The fax telephone numbers for this group are either (571) 273-8300 or (703) 872-9326 (for official communications including After Final communications labeled "Box AF").

Another resource that is available to applicants is the Patent Application Information Retrieval (PAIR). Information regarding the status of an application can be obtained from the (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAX. Status information for unpublished applications is available

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through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, please feel free to contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Sincerely,



Vivek Koppikar

3/29/2006



C. LUKE GILLIGAN  
PATENT EXAMINER